

PATENT & TRADEMARK OFFICE
MAR 0 6 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 62-659

In re patent application of Muller

Group Art Unit: 1616

Serial No. 09/319,541

Examiner: Shahnam Sharareh

Filed: 8/19/99

For: PREPARATION IN FORM OF A MATRIX-AUXILIARY AGENT COMPOUND
CONTAINING OPTIONALLY AN ACTIVE SUBSTANCE

March 1, 2002

AMENDMENT AND RESPONSE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the final Office Action dated June 5, 2001 and supplemental to Applicant's Response filed on December 4, 2001.

Applicant filed a Request for Continued Examination along with a petition for a 3 month suspension of action on December 4, 2001. The 3 month suspension of action ends on March 4, 2002. Thus, the pending Office Action dated February 26, 2002 is improper and should be withdrawn and stricken in its entirety. Applicant requests that the Examiner fully consider the attached herewith experimental evidence submitted in the form of a Rule 132 Declaration and issue a Notice of Allowance or a new action on the merits.

IN THE CLAIMS:

Please amend claims 2 and 22 as follows:

2. (Amended) Formulation in the form of a matrix material-containing compound comprising:
- an excipient phase comprising at least one excipient;
 - an active substance phase comprising at least one active substance;
 - and
 - a matrix material phase comprising at least one polymer or lipid, wherein when the matrix material phase comprises cellulose the portion of the matrix material phase of the formulation is 70 to 98% by weight, and wherein the formulation is in the form of a freely flowable powder of spray-dried particles such that the matrix material phase is incoherent and the excipient and active